

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JESSICA T. BADILLA, et al.,

Plaintiffs,

Case # 12-CV-1066-FPG

v.

DECISION AND ORDER

NATIONAL AIR CARGO INC., et al.,

Defendants.

This case arises from an October 2010 airplane crash that occurred near Kabul Afghanistan International Airport. Plaintiffs are the personal representatives of six crew members killed in the crash, who brought suit against several entities alleged to be responsible. *See generally* ECF No. 95. The only remaining defendant is Midwest Air Traffic Control Service, Inc. (“Midwest”), a government contractor that provided air traffic control services at the airport. Plaintiffs allege that Midwest employed the air traffic controller who negligently instructed the pilot and thereby caused the crash.¹ *Id.* at 12-13.

Before the Court is the Report & Recommendation (“R&R”) of United States Magistrate Judge Jeremiah J. McCarthy, in which he recommends granting Midwest’s motion for summary judgment. ECF No. 170. Plaintiffs timely filed their objections to the R&R. *See* ECF Nos. 174, 176.

When a party makes specific objections to portions of a magistrate judge’s R&R, the district court reviews those portions *de novo*. Loc. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1)(C). An objection must “specifically identify” the portions of the R&R to which the party objects, and provide a “basis for each objection” that is “supported by legal authority.” Loc. R. Civ. P. 72(b).

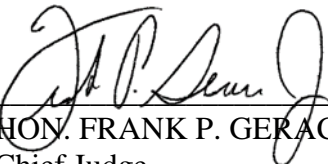
¹ For a full summary of the underlying events, the Court refers the reader to Magistrate Judge McCarthy’s thorough recitation of the facts. *See* ECF No. 170 at 1-8.

Judge McCarthy granted Midwest's motion for several independently dispositive reasons. Plaintiffs object to each of those reasons. The Court need not address them in detail, however, because each of Plaintiffs' objections is adequately addressed by Judge McCarthy's comprehensive and well-reasoned R&R. It suffices to say that, even after *de novo* review, the Court agrees with Judge McCarthy's rejection of Plaintiffs' arguments.

Accordingly, the Court ADOPTS Judge McCarthy's R&R (ECF No. 170) and GRANTS Midwest's summary judgment motion (ECF No. 155). The claims against Midwest, and Midwest's counterclaim for indemnification, are DISMISSED. Because this disposes of the only remaining claims, the Clerk of Court shall enter judgment in accordance with this Order and the prior dispositive orders, *see* ECF Nos. 120, 154, and shall close this case.

IT IS SO ORDERED.

Dated: January 14, 2020
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court